

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE  
WASHINGTON, DC

# FSIS NOTICE

69-15

10/22/15

## RESTORATION OF FORFEITED ANNUAL LEAVE

### I. PURPOSE

The notice reminds employees and supervisors of their mutual responsibility to plan and schedule annual leave throughout the leave year. This notice provides the conditions under which forfeited annual leave may be restored; procedures to request declaration of an exigency of the public business (e.g., operational emergency); procedures to request restoration of forfeited annual leave; a listing of the documents required to request restoration of forfeited annual leave; and informs employees of the timeframes for scheduling annual leave and compensatory leave.

### II. SCHEDULING ANNUAL LEAVE

A. Employees are responsible for requesting and using leave in time to avoid forfeiture. Employees, especially those on compressed and certain flexible work schedules, are to monitor the "Projected Use or Lose" block on Form AD-334, Statement of Earnings and Leave. Leave balance information is also available on the Employee Personal page of the National Finance Center's web site as well as in WebTA. The annual leave balance cannot exceed the maximum carryover (i.e., 240 hours for GS employees and 720 hours for SES/SL employees).

B. Employees with use or lose annual leave are to use annual leave before using compensatory time, travel compensatory time, or credit hours. Employees without use or lose annual leave are to first use travel compensatory leave, and then compensatory leave, before using annual leave. Using leave in other categories while maintaining a use or lose leave balance could result in forfeiting annual leave that would otherwise be eligible for restoration.

C. Employees are to request annual leave in writing through one of the means described in paragraph II. F. of this notice, by November 28, 2015. If an employee does not complete the request on time, he or she will not be eligible to have any annual leave restored. This scheduling requirement is regulatory (i.e. [5 CFR 630.308](#)), and FSIS does not have the authority to waive the requirement under any circumstances.

D. Supervisors and employees are responsible for ensuring that leave is scheduled by November 28, 2015. If a supervisor is unable to approve the leave requested for a particular date, he or she and the employee are to make every effort to reschedule the leave for another time during the current leave year.

E. In order to establish eligibility to seek restoration, employees are to have their leave requests approved on or before November 28, 2015.

**DISTRIBUTION:** Electronic; All Field Employees

**NOTICE EXPIRES:** 11/1/16

**OPI:** OPPD

F. Employees with access to WebTA are to request annual leave using WebTA. Employees without WebTA access are to use Office of Personnel Management SF-71, Request for Leave or Approved Absence, or other written means such as leave rosters, calendars, or memoranda.

G. Employees are to ensure that the following information is contained in their written request for leave (such as WebTA leave request or SF-71):

1. The employee's organizational unit;
2. The specific dates and hours within the assigned tour of duty for which leave is being requested. An employee on a compressed work schedule is to specify the scheduled day off or short day that falls within the period of leave requested;
3. The total number of hours requested;
4. The employee's signature and date.

H. Supervisors are to state whether the leave request is approved or denied and sign and date the written request for leave. If the leave request is denied, supervisors are to provide the reason.

I. Employees who begin the leave year with a balance of 240 hours of annual leave are to use all of the annual leave that they earn in the new leave year by the end of the leave year, January 9, 2016, in order to avoid forfeiture. What this means is:

1. Employees in an 8-hour leave earning category are to schedule and use all 208 hours that they expect to earn;
2. Employees in a 6-hour leave-earning category are to schedule and use all of the 160 hours that they expect to earn; and
3. Employees in a 4-hour leave earning category are to schedule and use all of the 104 hours that they expect to earn.

J. Employees who have, or are projected to have, use-or-lose annual leave are to first take annual leave before taking any other form of leave (e.g., travel compensatory time, credit time, leave without pay, compensatory time) to avoid forfeiture. If they do not start the year taking annual leave, they could find themselves in a situation similar to the one described in Attachment 3.

### **III. MEETING CONDITIONS FOR RESTORATION**

A. An employee can have annual leave restored for the following reasons:

1. Administrative error that caused the forfeiture of annual leave in excess of the carryover amount of 240 hours.

**NOTE:** Math errors (e.g., an employee in the six-hour leave earning category who fails to account for the extra four hours of leave earned in PP 25) made by employees and timekeepers do not establish a basis for restoring forfeited annual leave;

2. Unjustified or unwarranted personnel action that caused the forfeiture of annual leave;
3. Illness of the employee, when the annual leave was approved by an appropriate official in writing

on or before November 28, 2015. The illness needs to have occurred so late in the year or be of such duration that the annual leave could not have been rescheduled for use before the end of the leave year. When sick leave extends during a period when annual leave was scheduled, and the annual leave is subsequently forfeited because of the use of sick leave, supervisors and employees are responsible for rescheduling the annual leave in writing as described in section II of this notice. Also, before forfeited annual leave can be restored because of illness, the employee's leave restoration is to be supported by a medical certificate for the period of incapacitation; or

4. Exigency of the public business (see [FSIS Directive 4630.2, Leave](#)) when the annual leave was approved by an appropriate official in writing on or before November 28, 2015. Only a genuine operational emergency of such importance that FSIS cannot effectively conduct its public business will support canceling an employee's approved annual leave. Heavy workload, such as a year-end report, is not a condition under which forfeited annual leave can be restored. A furlough because of a lack of funds or work (which resulted in the cancellation of scheduled leave) could constitute an exigency of the public business if the employee made every effort to reschedule the use or lose annual leave and was prevented from actually taking the leave because there was insufficient time left in the leave year in which to take the leave (see [5 CFR 630.308](#)).

B. The supervisor and the appropriate management official are to take the following steps to document approval or disapproval of the exigency in writing prior to canceling an employee's leave. The supervisor is to:

1. Prepare the documentation to include the beginning and ending dates of the exigency, if possible (see attachment 1 for a sample letter requesting a declaration of exigency);
2. Submit documentation to the appropriate higher-level management official for approval (see attachment 2 for an exigency flowchart); and
3. Notify the employee after receiving the decision on the exigency that the approved annual leave has been canceled because of the operational emergency, and then take action to reschedule the leave for the current leave year.

C. The supervisor and the appropriate management official are to:

1. Document the approval or disapproval of the exigency in writing;
2. Notify the recommending supervisor of the decision; and
3. Maintain the paperwork documenting the exigency.

#### **IV. REQUESTING RESTORATION OF FORFEITED ANNUAL LEAVE**

A. Employees are to submit requests for restoration of forfeited annual leave by March 19, 2016.

B. A supervisory official or employee initiates the memorandum seeking restoration. All requests are routed through supervisory channels to the Chief, Employment, Classification and Compensation Branch (ECCB), Human Resources Management Division (HRMD), Office of Management, and are to include the supervisor's recommendation on the merits of the request and the information listed in subparagraph D., below.

C. The Chief, ECCB, is authorized to approve or disapprove restoration requests. Form AD-582, Authorization for Restored Annual Leave, serves as notification to the employee, timekeeper, HRMD, and

the Financial Services Center on restored leave amounts and time limits for use.

D. Restoration requests, as described in [FSIS Directive 4630.2](#), are to include the following information:

1. The employee's name, title, grade, organizational unit, and location;
2. Form AD-717, Audit for Leave Year 20XX, covering the leave year in question. The AD-717 is to contain accurate hours of leave balances and leave forfeited. The timekeeper is to identify and to take the necessary steps to correct all leave discrepancies before the leave audit is submitted to the ECCB. Leave audits generated from WebTA are acceptable in place of Form AD-717.
3. The details of the specific circumstances that caused forfeiture of leave because of one or more of the following:
  - a. Administrative error that caused the forfeiture of annual leave;
  - b. Unjustified or unwarranted personnel action that caused the forfeiture of annual leave;
  - c. Nature of the employee illness that resulted in cancelation of scheduled annual leave, including the medical certificate, date the illness began, and the date employee returned to duty; and
  - d. Exigency that resulted in cancelation of the scheduled leave, including the beginning and ending dates.
4. Copies of forms or documents used to schedule or reschedule forfeited annual leave (e.g., approved leave request, leave rosters or memorandums) are to include:
  - a. The date the supervisor approved the leave;
  - b. The specific dates of scheduled leave and the total number of hours;
  - c. Copies of the employee's time and attendance records for the last pay period of the leave year for which leave was forfeited and the first pay period of the following leave year;
  - d. The specific dates annual leave was canceled, and the total number of hours forfeited;
  - e. An explanation of why annual leave could not be rescheduled and used during the leave year;
  - f. An explanation of options other than cancelation of leave that were considered and rejected (e.g., reschedule leave, reassign work to another employee, and request extension a project deadline);
  - g. In cases where restoration is requested because of an exigency of public business, a copy of the paperwork documenting the exigency, and its approval by the appropriate management official. Documentation is to be approved at the time the exigency is known or expected but is to be approved before canceling the employee's leave; and
  - h. The date the leave was rescheduled.

## V. ADDITIONAL OPTION FOR USE-OR-LOSE ANNUAL LEAVE

A. Another option employees who may be forfeiting use-or-lose annual leave have is the Leave Transfer Program (LTP). The LTP allows Federal employees to donate annual leave for use by other Federal employees who need it because of personal or family medical emergencies. Under the LTP, Federal employees can voluntarily donate unused, accrued, or restored annual leave to other Federal employees at any time during the leave year.

B. Detailed information on the LTP can be found in [FSIS Directive 4630.2](#). A current list of approved recipients, information for donating leave, and applying to become a recipient can be found on the InsideFSIS: <http://collaboration/sites/InfoExch/Personnel/Personnel/Forms/AllItems.aspx> (Level 2 eAuthentication is needed to access this information on InsideFSIS).

## VI. QUESTIONS

Refer questions to the ECCB, HRMD, at 202-692-4238.

A handwritten signature in black ink, appearing to read "David Joseph". The signature is fluid and cursive, with a large initial "D" and "J".

Assistant Administrator  
Office of Policy and Program Development

United States Department of Agriculture

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Food Safety and  
Inspection Service

1400 Independence  
Avenue, SW.  
Washington, D.C.  
20250

Human Resources  
Management Division

Employment,  
Classification, and  
Compensation Branch

(202) 720-6617  
Fax: (202) 690-1666

To: Assistant Administrator  
Office of Field Operations

From: District Manager  
XXXX District

Subject: Request for Declaration of Exigency – OFO, XXXX District

Several employees are engaged in activities related to an outbreak in the XXXX District. Many of these employees have scheduled use or lose annual leave to be taken by the end of the leave year.

When originally planning to address this outbreak, it was anticipated that no scheduled leave would be canceled. However, the outbreak is wider than originally reported and the employees engaged in this effort will be needed until the situation is resolved, which will require that scheduled leave for these employees be canceled. This may cause some employees to forfeit annual leave, although, every effort will be made to reschedule the canceled leave for use before the end of the leave year, to minimize forfeiture.

The success of this effort is essential to the Agency's mission, and there are no viable alternatives to canceling the leave. This situation fully meets the criteria for exigency of public business as described in FSIS Directive 4630.2, Leave, and the FSIS Notice on Restoration of Forfeited Annual Leave. We expect exigency conditions will extend from November 5, 2015 until December 10, 2015.

Your approval of this public exigency will help to ensure the restoration of any forfeited annual leave for affected employees. Please indicate your decision by signing and dating in the appropriate space below. Thank you.

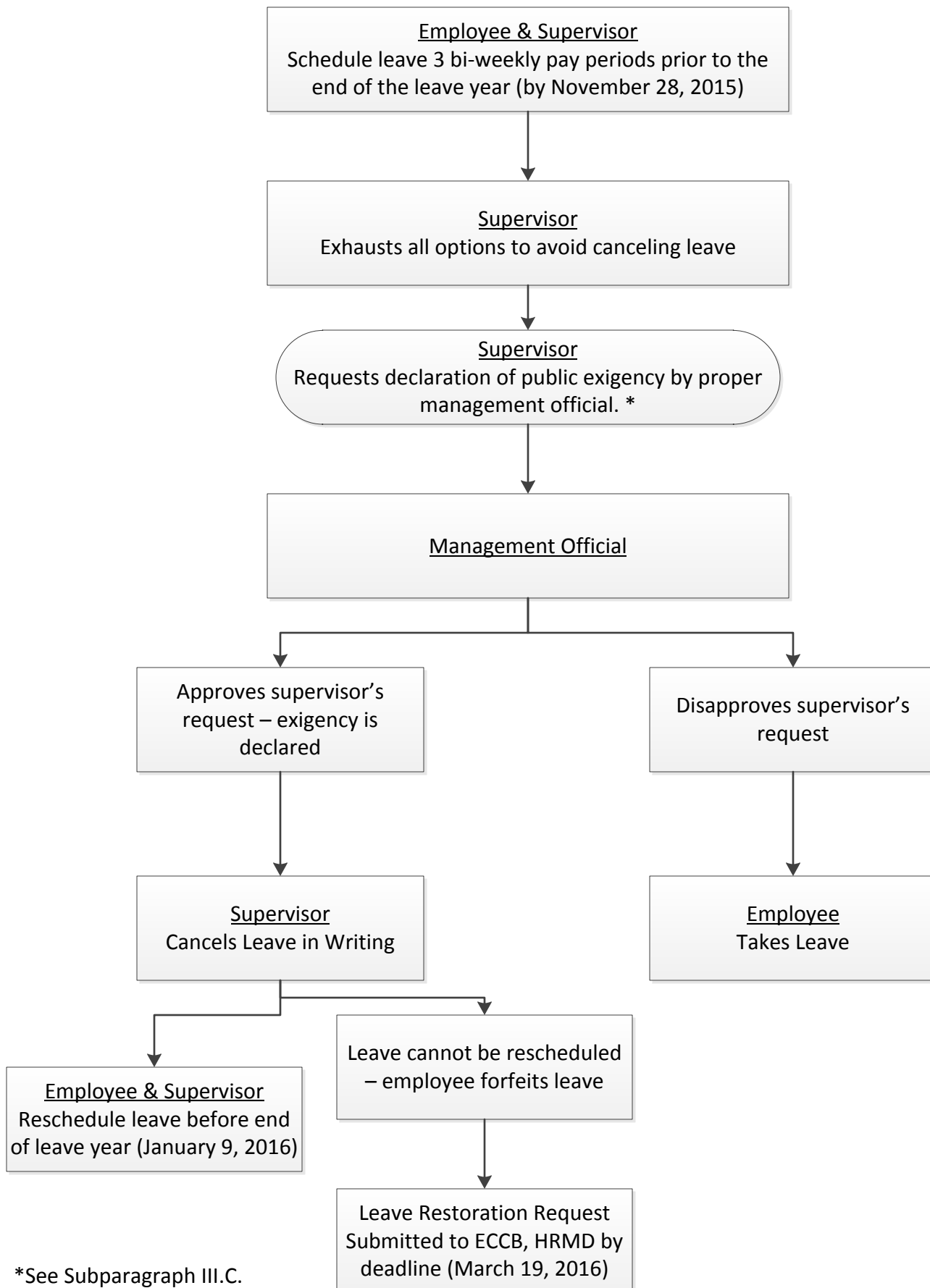
\_\_\_\_\_ APPROVED

\_\_\_\_\_ DISAPPROVED

\_\_\_\_\_  
Assistant Administrator  
Office of Field Operations

DATE: \_\_\_\_\_

## FLOWCHART FOR REQUESTING DECLARATION OF PUBLIC EXIGENCY



## **Request for Restoration of Forfeited Annual Leave Scenarios**

### **Scenario 1: Partial Restoration of Forfeited Annual Leave Because Employee Used Forms of Leave Other than Annual Leave**

Jane earns 8 hours of annual leave each pay period. She began the new leave year with 240 hours/6 weeks of annual leave, and also had 12 hours of travel compensatory time. She expects to take two weeks of annual leave when she and her husband go on a cruise in March; two weeks of annual leave when she and her family go on summer vacation in early June; one week of annual leave in early December, when she goes to visit her mother; and one week of annual leave in late December when her children will be on school break.

When Jane prepares to go on her cruise in March she decides that instead of taking 80 hours of annual leave as originally planned, she will take 68 hours of annual leave, and all 12 hours of her travel compensatory time. She makes this decision because she realizes that if she doesn't use her travel compensatory time soon, she will lose it. Additionally, by the time she is ready to go on summer vacation, she has earned 15 hours of credit time. So, instead of taking 80 hours of annual leave she opts to take 15 hours of credit time, and 65 hours of annual leave. She figures by making this adjustment, she will have a little more use-or-lose leave in December, which will allow her to take some additional time off while her children are on school break. So she submits a request to take additional annual leave in late December and early January, at the end of the leave year.

Unfortunately, the annual leave that Jane had planned for late December and early January had to be canceled since she was the project lead on a time-sensitive, critical initiative and it demanded her immediate attention. An exigency was declared and Jane's leave was canceled. As a result, she forfeited 67 hours of annual leave, and she applied for leave restoration. Only 40 of the 67 hours of leave could be restored since Jane opted to use 12 hours of travel compensatory time, and 15 hours of credit time earlier in the year, when she could have taken annual leave.

### **Scenario 2: Request for Restoration of Forfeited Annual Leave is Not Approved Because the Employee Opted Not to Take Scheduled Leave to Meet Important Requirements**

John had scheduled the last 30 hours of his use or lose leave to be taken in December. Unfortunately, in December he was coming to a close on a time-sensitive project that he felt he had to personally complete. He used his judgment and continued working on the project, despite his original leave plans. As a result, he only used 5 of the 30 hours of use or lose annual leave.

John submitted a request to have the 25 hours of forfeited annual leave restored; the request was denied. While John's supervisor appreciated John's dedication, he didn't direct him to work during the period when he had scheduled leave, and given the broad span of his supervisory control, wasn't aware that John was giving up use-or-lose leave until John told him, after the fact.

Had John talked with his supervisor in advance, there would have been an opportunity for the supervisor to consider available options. Perhaps the project deadline could have been adjusted or maybe a co-worker could have assisted John or taken over the project, etc. In this unfortunate situation, the employee could not have his forfeited leave restored.



## **Request for Restoration of Forfeited Annual Leave Scenarios**

### **Scenario 3: Forfeiture of Annual Leave Because He Overlooked a Holiday**

Cyril planned to take 64 hours of use or lose leave in late December and early January, specifically, between December 30, 2015 and January 8, 2016. He entered his annual leave request into WebTA, and his supervisor approved it. It wasn't until he prepared his Pay Period 26 T&A that he realized the problem with his projected leave usage; he had forgotten that he would receive 8 hours of holiday leave for January 1, which meant that he could only use 56 hours of his use or lose annual leave. Therefore, Cyril forfeited 8 hours of annual leave.

Not only do employees need to make sure that they factor holidays into their plans for taking use or lose leave, they also need to remember that there is a possibility of an unscheduled holiday (e.g., the President declares a half-day holiday on Christmas Eve), or office closure (e.g., due to inclement weather) and plan accordingly.